REMARKS

In the final Office Action mailed October 15, 2007[1], the Examiner rejected claims 21 and 23-30 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter; and rejected claims 1, 3-11, 13-21, and 23-30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,248,603 to Grunkemeyer et al. ("*Grunkemeyer*") in view of U.S. Patent No. 6,826,761 to Jordan et al. ("*Jordan*").

By this amendment, Applicants propose to amended claims 21 and 23-30. Based on the amendment and the following remarks, Applicants respectfully traverse the rejections presented in the Office Action.

I. The Rejection of Claims 21 and 23-30 under 35 U.S.C. § 101

The Examiner states that "[c]laim 21 is not limited to statutory embodiments ... e.g., data signal embodied in a carrier wave" (Office Action at p. 2). Amended claim 21 recites a statutory computer-readable storage medium. Claims 23-30 were rejected solely due to their dependency from claim 21 (Office Action at p. 2). Therefore, Applicant respectfully requests the Examiner to withdraw the rejection.

II. The Rejection of Claims 1, 3-11, 13-21, and 23-30 under 35 U.S.C. § 103(a)

Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1, 3-11, 13-21, and 23-30. A *prima facie* case of obviousness has not been established because, among other things, neither *Grunkemeyer* nor *Jordan*, taken alone or in combination, render obvious the subject matter recited by Applicant's claims.

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[1] The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. *See* M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007). Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. *See* id. "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." M.P.E.P. § 2145. Furthermore, "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. M.P.E.P. § 2143.01(III), internal citation omitted. Moreover, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." M.P.E.P. § 2141.02(I), internal citations omitted (emphasis in original). In this application, a *prima facie* case of obviousness has not been established because the Examiner has not clearly articulated a reason why one of ordinary skill would find the claimed combination obvious in view of the cited references.

Claim 1 recites, for example, a method for calling a target object from a caller object in a first call mode, comprising "notifying [a] caller object to cause the caller object to change from the synchronous call mode to an asynchronous call mode in handling the call if the execution of the call is determined to exceed the threshold" (emphasis added). The cited references fail to render obvious this subject matter of claim 1.

Grunkemeyer discloses a "system and method for converting code associated with synchronous method calls to code that can be employed to perform asynchronous method calls (*Grunkemeyer*, abstract). The system includes a compiler that generates asynchronous code for objects that would conventionally be called synchronously (*Grunkemeyer*, col. 5, line 34, and col. 6, lines 36-40). For example, *Grunkemeyer* discloses that the compiler generates asynchronous code for a PrimeFactorizer class (col. 7, line 15 to col. 8, line 9) based on synchronous code for the PrimeFactorizer class (*Grunkemeyer*, col. 6, lines 45 to 64).

However, *Grunkemeyer's* disclosure does not relate to changing a given execution of an object from a synchronous call mode to an asynchronous call mode. Instead, *Grunkemeyer* converts synchronous code to asynchronous code before the code is executed, using a compiler. The synchronous code generated by *Grunkemeyer's* compiler does not change to the asynchronous code in handling a call. Therefore, *Grunkemeyer* fails to render obvious "notifying [a] caller object to cause the caller object to change from the synchronous call mode to an asynchronous call mode in handling the call if the execution of the call is determined to exceed the threshold," as recited by independent claim 1.

Jordan fails to cure the deficiencies of *Grunkemeyer*. *Jordan* discloses using heuristics to determine whether a given request is handled synchronously or asynchronously (*Jordan*, abstract). The heuristics can be maintained by recording historical information about the service times for synchronous requests, and then determining whether a given operation should be driven synchronously or asynchronously based on the historical service times (*Jordan*, col. 16, lines 47 to 61).

Like *Grunkemeyer*, *Jordan's* disclosure does not relate to changing a given execution of an object from a synchronous call mode to an asynchronous call mode. Instead, *Jordan* discloses determining whether or not to invoke a given operation synchronously or asynchronously before the operation is invoked. Thus, *Jordan*'s operations do not change from a synchronous call mode to an asynchronous call mode in handling a call. Instead, *Jordan*'s executions stay in the call mode in which they were invoked, for the duration of their execution. Therefore, *Jordan* does not render obvious "notifying [a] caller object to cause the caller object to change from the synchronous call mode to an asynchronous call mode in handling the call if the execution of the call is determined to exceed the threshold," as recited by independent claim 1.

Independent claims 11 and 21, although of different scope than claim 1, recite subject matter similar to that discussed above with respect to claim 1, and not rendered obvious by the cited references. Claims 2 -6, 8, and 10 depend from claim 1, claims 12-16, 18, and 20 depend from claim 11, and claims 22-26, 28, and 30 depend from claim 21, and are allowable at least due to their dependence from allowable base claims.

III. Conclusion

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1, 3-11, 13-21, and 23-30 in condition for allowance. The final action presented new arguments as to the application of the art against Applicants' invention, and entering the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Applicants further submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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